

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA

2005 NOV 10 A 9:46

Robert Twyman, jr, et. Al.,  
Full name and prison number  
of plaintiff(s)

v.

Troy King, et al.,

CIVIL ACTION NO. 2:05CV1085-T  
(To be supplied by Clerk of  
U.S. District Court)

Name of person(s) who violated  
your constitutional rights.  
(List the names of all the  
persons.)

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same or similar facts involved in this action? YES ( ) NO (XXX)
- B. Have you begun other lawsuits in state or federal court relating to your imprisonment? YES (XX ) NO ( )
- C. If your answer to A or B is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff(s) State of Alabama

Defendant(s) Robert Twyman, Jr.

2. Court (if federal court, name the district; if state court, name the county) Bibb County

Circuit Court

3. Docket number CV-05-06
4. Name of judge to whom case was assigned Judge Jones
5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) Habeas Corpus Dismissed; Appeal Affirmed
6. Approximate date of filing lawsuit 1-6-05
7. Approximate date of disposition 4-5-05

II. PLACE OF PRESENT CONFINEMENT Bibb County  
Correctional Facility

PLACE OR INSTITUTION WHERE INCIDENT OCCURRED  
N/A

III. NAME AND ADDRESS OF INDIVIDUAL(S) YOU ALLEGE VIOLATED YOUR CONSTITUTIONAL RIGHTS.

NAME	ADDRESS
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- |    |  |
|----|--|
| 1. | <u>Troy King; 11 South union St. Montgomery, Al. 35130</u> |
| 2. | <u></u>  |
| 3. | <u></u>  |
| 4. | <u></u>  |
| 5. | <u></u>  |
| 6. | <u></u>  |

IV. THE DATE UPON WHICH SAID VIOLATION OCCURRED 2-1304

V. STATE BRIEFLY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOUR CONSTITUTIONAL RIGHTS ARE BEING VIOLATED:

GROUND ONE: Fourth Amendments Rights Violated

On 5-27-96, plaintiff was granted paroled by the Al. Bd. of

STATE BRIEFLY THE FACTS WHICH SUPPORT THIS GROUND. (State as best you can the time, place and manner and person involved.)

Pardons & Paroles, and released from the (ADOC). Months later  
plaintiff parole was transfered to Cobb Co., Ga. 3-27-98, plaintiff  
was arrested for Aggravated Assault of a Veriona Evans. Plaintiff  
was eventually convicted of two misdemeanors. "The Ga. parole  
officer subsequently recommended that Twyman be continued on

GROUND TWO: parole supervision. The Board accepted this  
recommendation and voided its declaration of delinquency. For

SUPPORTING FACTS: some reason,...., the fugitive warrant issued  
by the Department of Corrections was not voided." Plaintiff  
was released by the Cobb Co. 9-15-98. However. 2-13-04 plaintiff

was arested for a unrelated charge in Talladega Al., and later  
declared a parole violater, A so-called Fugitive Warrant was  
issued 6-9-98 by the ADOC, Commissioner, which has been used

to placed plaintiff back in prison. The Commissioner of the  
GROUND THREE: ADOC does not have the authority to issue a warrant,  
without a magistrate or Judge's signature, for he's a law

SUPPORTING FACTS: enforcement official. The Code of Alabama has  
a statute that supposedly authorizes the retaking of prisoner,  
by the Commissioner issuing warrants. The Fourth and Fourteenth  
Amendments of the U.S. Constitution, prohibits such an act.

The defendant has a duties under state law to ensure no such  
unconstitution laws wxist, in the State. WHEREAS, the defendants  
has acted under color of state law, for not performing his  
duties, and plaintiff's constitutional right have been violated.

SEE ATTACHED ARGUMENT IN SUPPORT OF CIVIL RIGHT COMPLAINT:

VI. STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU.  
MAKE NO LEGAL ARGUMENT. CITE NO CASES OR STATUTES.

Plaintiff request a trial by Judge and Jury: Declaratory Judgment  
and Injunction relief for the misuseage of the State statute,  
which violated well established rights of plaintiff; and any  
other relief this Court, may see-fit:

\_\_\_\_\_  
Signature of plaintiff(s)

I declare under penalty of perjury that the foregoing is true  
and correct.

EXECUTED on November 9, 2005.  
(Date)

Robert J. Jymen, Jr.  
Signature of plaintiff(s)

ARGUMENT IN SUPPORT OF CIVIL RIGHT COMPLAINT

"Under section 1983 of the Civil Right Act of 1871, a prisoner may seek redress. When a person acting under color of state law deprives the prisoner of right guaranteed by the Constitution or federal law. Section 1983 is not itself a source of substantive rights, but rather it is a means of vindicating federal rights established elsewhere. Section 1983 supplements available state remedies designed to vindicate violations of constitutional rights.'

According to the Code of Alabama, Chapter 15, Attorney General, Section 36-15-1. Duties generally;  
"(7) At such time as the Attorney General deems appropriate, the Attorney General shall carefully examine all of the general statutes now in force, or which hereafter may be enacted by the Legislature from time to time, as to their clarity and constitutional validity."

Pursuant to the United States Constitution, the Fourth Amendment; The issuing magistrate must meet two tests. They must be neutral and detached, and they must be capable to determine whether probable cause exists for the requested arrest.

The Code of Alabama, Section 15-7-4 coincides with the Fourth Amendment. "A paper in the form of a warrant not bearing the signature of any judge or magistrate is not a warrant but a mere nullity. *Grissom v. Lawler*, 10 Ala. App. 540, 65 So. 705 (1914)."

However, the Code of Alabama section 15-22-31(a), states;  
"If the parole officer having charge of a paroled prisoner or any member of the Board of Pardons and Paroles shall have reasonable cause to believe that such prisoner has lapsed, or is probably about to lapse, into criminal ways or company or has violated the conditions of his parole in an important respect, such officer or board member shall report such fact

to the Department of Corrections, which shall therupon issue a warrant for the retaking of such prisoner and his return to the prison designated.'

Section 15-22-31(a) violates the Fourth Amendment of the U.S. Constitution, for it allows the Commissioner of the Alabama Department of Corrections to issue a warrant. The Commissioner is a law enforcement officer.

The United States Supreme Court stated in *Coolidge v. New Hampshire*, 403 U.S. 443, 452 (1971); "State statutes permitting law enforcement officer themselves to issue warrant violates the Fourth and Fourteenth Amendment of the United States Constitution.

Section 15-22-31(a), also violates the Constitution of Alabama, 1901 Articles III Sections 42 & 43. For the Commissioner of the Alabama Department of Corrections falls under the Executive Department and the issuing of warrants falls within the judicial Department.

"The legislature cannot transfer from the Executive Department to the Judicial Department power expressly and conclusively conferred upon the Executive Department by the constitution. *Montgomery v. State*, 231 Ala. 1 (1935).

The defendant Troy Kings, the Attorney General for the State of Alabama, has acted under the color of State Law for allowing this unconstitution law and such procedure to exist, in order to incarcerate inmates, as the plaintiff, and other in violation of the United States and Alabama Constitution.